
A BILL FOR AN ACT

RELATING TO EMERGENCY RULES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the coronavirus
2 disease 2019 (COVID-19) pandemic has created great challenges to
3 global health, economy, and way of life. The governor and
4 county mayors have had to exercise their emergency powers under
5 chapter 127A, Hawaii Revised Statutes, to impose rules aimed to
6 control the spread of COVID-19. The enforcement of these rules
7 is critical to efforts to limit the spread of COVID-19, protect
8 the health and safety of the community, manage medical
9 resources, and restart the economy. To allow for more
10 meaningful and effective enforcement of emergency orders, the
11 governor and mayors need flexibility to promulgate a range of
12 lesser penalties for emergency rules.

13 Accordingly, the purposes of this measure are to:

14 (1) Allow for lesser emergency period penalties to be
15 adopted and promulgated by the governor or a mayor;
16 and



1 (2) Amend the State's existing traffic infraction laws to
2 incorporate emergency period infractions so that they
3 are adjudicated in the same manner.

4 SECTION 2. Section 127A-29, Hawaii Revised Statutes, is
5 amended to read as follows:

6 " ~~[f] §127A-29 [f]—Misdemeanors.] Emergency period~~

7 infractions, violations, petty misdemeanors, and misdemeanors.

8 (a) Any person violating any rule of the governor or mayor
9 prescribed and promulgated pursuant to this chapter and having
10 the force and effect of law[7] shall, if it shall be so stated
11 and designated in the rule, be guilty of a violation, petty
12 misdemeanor, or misdemeanor. [Upon] The governor or mayor may
13 state and designate the penalty applicable to the offense;
14 provided that if a penalty is not stated and designated, the
15 person shall be sentenced in accordance with chapter 706;
16 provided further that if both the offense and penalty are not
17 stated and designated in the rule, the person shall be guilty of
18 a misdemeanor and upon conviction, the person shall be fined not
19 more than [\$5,000, or] \$2,000, imprisoned not more than one
20 year, or both.



1 The governor or mayor may prescribe or promulgate the
2 noncompliance of a rule as an emergency period infraction, as
3 defined in section 291D-2. Any emergency period infraction so
4 stated and designated in the emergency proclamation or order
5 shall be adjudicated pursuant to chapter 291D. A person not in
6 compliance with an emergency period rule shall be fined \$200 for
7 each occurrence; provided that the governor or mayor may state
8 and designate in the rule a fine of a different amount.

9 (b) [Any] Notwithstanding subsection (a), any person who
10 intentionally, knowingly, or recklessly destroys, damages, or
11 loses any shelter, protective device, or warning or signal
12 device, shall if the same was installed or constructed by the
13 United States, the State, or a county, or is the property of the
14 United States, the State, or a county, be fined the cost of
15 replacement, or imprisoned not more than one year, or both. The
16 governor or mayor, may, by rule, make further provisions for the
17 protection from misuse of shelters, protective devices, or
18 warning and signal devices."

19 SECTION 3. Chapter 291D, Hawaii Revised Statutes, is
20 amended by amending the title to read as follows:

21 " [-] CHAPTER 291D [-]"



1 ADJUDICATION OF [TRAFFIC] INFRACTIONS"

2 SECTION 4. Section 291D-1, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "[-]§291D-1[+] Purpose. (a) Act 222, Session Laws of
5 Hawaii 1978, began the process of decriminalizing certain
6 traffic offenses, not of a serious nature, to the status of
7 violations. In response to a request by the legislature, the
8 judiciary prepared a report in 1987 that recommended, among
9 other things, further decriminalization of traffic offenses,
10 elimination of most traffic arraignments, disposition of
11 uncontested violations by mail, and informal hearings where the
12 violation or the proposed penalty is questioned. The
13 legislature finds that further decriminalization of certain
14 traffic offenses and streamlining of the handling of those
15 traffic cases will achieve a more expeditious system for the
16 judicial processing of traffic infractions. The system of
17 processing traffic infractions established by this chapter will:

18 (1) Eliminate the long and tedious arraignment proceeding
19 for a majority of traffic matters;



- 1 (2) Facilitate and encourage the resolution of many
2 traffic infractions through the payment of a monetary
3 assessment;
- 4 (3) Speed the disposition of contested cases through a
5 hearing, similar to small claims proceedings, in which
6 the rules of evidence will not apply and the court
7 will consider as evidence the notice of traffic
8 infraction, applicable police reports, or other
9 written statements by the police officer who issued
10 the notice, any other relevant written material, and
11 any evidence or statements by the person contesting
12 the notice of traffic infraction;
- 13 (4) Dispense in most cases with the need for witnesses,
14 including law enforcement officers, to be present and
15 for the participation of the prosecuting attorney;
- 16 (5) Allow judicial, prosecutorial, and law enforcement
17 resources to be used more efficiently and effectively;
18 and
- 19 (6) Save the taxpayers money and reduce their frustration
20 with the judicial system by simplifying the traffic
21 court process.



1 The legislature further finds that this chapter will not require
2 expansion of the current traffic division of the district
3 courts, but will achieve greater efficiency through more
4 effective use of existing resources of the district courts.

5 (b) The legislature finds that the pandemic related to the
6 coronavirus disease 2019 (COVID-19) necessitated the imposition
7 of emergency period rules in an attempt to control the spread of
8 COVID-19 in the State. The thousands of violations of the
9 emergency period rules caused an examination of the ability to
10 impose infractions for lesser offenses as an alternative to
11 using the penal code and to allow for more efficient use of the
12 judicial system. The system of processing traffic infractions
13 under this chapter was enacted in 1993 and has provided a useful
14 mechanism for handling offenses deemed as infractions and is
15 well-suited to certain types of violations of emergency period
16 rules that are designated infractions by the governor or mayor
17 under the state's emergency management laws."

18 SECTION 5. Section 291D-2, Hawaii Revised Statutes, is
19 amended by amending the definitions of "concurrent trial",
20 "hearing", "notice of traffic infraction", "related criminal
21 offense", and "traffic infraction" to read as follows:



1 "Concurrent trial" means a trial proceeding held in the
2 district or family court in which the defendant is tried
3 simultaneously in a civil case for any charged traffic or
4 emergency period infraction and in a criminal case for any
5 related criminal offense, with trials to be held in one court on
6 the same date and at the same time.

7 "Hearing" means a proceeding conducted by the district
8 court pursuant to section 291D-8 at which the person to whom a
9 notice of traffic infraction was issued either admits to the
10 traffic infraction, contests the notice of traffic or emergency
11 period infraction, or admits to the traffic infraction but
12 offers an explanation to mitigate the monetary assessment
13 imposed.

14 "Notice of traffic or emergency period infraction" includes
15 a notice of parking infraction.

16 "Related criminal offense" means any criminal violation or
17 crime, committed in the same course of conduct as a traffic or
18 emergency period infraction, for which the defendant is arrested
19 or charged.

20 "Traffic or emergency period infraction" means all:



1 (1) ~~[violations]~~ Violations of statutes, ordinances, or
2 rules relating to traffic movement and control,
3 including parking, standing, equipment, and pedestrian
4 offenses, for which the prescribed penalties do not
5 include imprisonment and that are not otherwise
6 specifically excluded from coverage of this
7 chapter ~~[]~~; and

8 (2) Occurrences of non-compliance of rules proclaimed or
9 ordered by the governor or a mayor pursuant to chapter
10 127A that are stated and designated in the emergency
11 proclamation or order as being an emergency period
12 infraction."

13 SECTION 6. Sections 291D-2, 291D-3, 291D-4, 291D-5,
14 291D-6, 291D-7, 291D-8, 291D-9, 291D-12, 291D-13, and 291D-14
15 are amended by substituting the word "traffic or emergency
16 period infraction" wherever the word "traffic infraction"
17 appears, as the context requires.

18 SECTION 7. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 8. This Act shall take effect upon its approval.



Report Title:

Emergency Period Infractions; Violations; Petty Misdemeanors;
Misdemeanors

Description:

Allows for lesser emergency period penalties to be adopted and promulgated by the governor or a mayor. Allows for the emergency period infractions to be processed under the traffic adjudication process in chapter 291D, Hawaii Revised Statutes. (Proposed SD1)

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